

**PT 00-50**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

**WILLING WORKERS  
CHURCH of FAITH, INC.  
d/b/a  
WILLING WORKERS  
COMMUNITY CENTER,  
APPLICANT**

**v.**

**ILLINOIS DEPARTMENT  
OF REVENUE**

**No. 99-PT-0007  
(97-16-1069)**

**Real Estate Tax Exemption for  
1997 Assessment Year**

**P.I.N.S: 26-07-304-035  
26-07-304-036  
26-07-304-037  
26-07-304-038  
26-07-304-039  
26-07-304-040**

**Cook County Parcels**

**Alan I. Marcus  
Administrative Law Judge**

**RECOMMENDATION FOR DISPOSITION**

**APPEARANCES:** Mr. Howard Hoffman, attorney at law, on behalf of the Willing Workers Church of Faith, Inc. d/b/a Willing Workers Community Center (hereinafter the “applicant”); Mr. Gary Stutland, Special Assistant Attorney General, on behalf of the Illinois Department of Revenue (hereinafter the “Department”).

**SYNOPSIS:** This matter raises the following issues: (1) whether real estate identified by Cook County Parcel Index Numbers 26-07-304-035, 26-07-304-036, 26-07-304-037, 26-07-304-038, 26-07-304-039 and 26-07-304-040 (hereinafter collectively referred to as the “subject property”) qualifies for exemption from 1997 real estate taxes under Section 15-40 of the Property Tax Code, 35 ILCS 200/1-1, *et seq.* (hereinafter the

“Code”); and/or (2) whether said property qualifies for exemption from such taxes under Section 15-65 of the Code.

The underlying controversy arises as follows:

Applicant filed a Real Estate Tax Exemption Complaint with the Cook County Board of (Tax) Appeals (hereinafter the “Board”) on June 3, 1998. The Board reviewed this complaint and recommended to the Department that the requested exemption be denied. The Department reviewed the Board’s recommendation and issued a determination denying the exemption on December 10, 1998. Said determination found denied the requested exemption on grounds that the subject property was not in exempt ownership and not in exempt use. (Dept. Group Ex. No. 1).

Applicant filed a timely appeal to this denial and later presented evidence at a formal evidentiary hearing. Following a careful review of the record made at that hearing, I recommend that the Department’s initial determination in this matter be reversed.

**FINDINGS OF FACT:**

1. Department’s Group Ex. No. 1 establishes the Department’s jurisdiction over this matter and its position therein.
2. The Department’s position in this matter is that the subject property is not in exempt ownership and not in exempt use. *Id.*
3. The subject property is located at 2808-16 East 104<sup>th</sup> Street, Chicago, IL and improved with a large (148 sq. ft. x 125 sq. ft.) one story building. *Id.*
4. Willing Workers Church of Faith (hereinafter the “Church”) was incorporated under the General Not For Profit Corporation Act of Illinois on April 21, 1987. Its basic

organizational purposes are, per its Articles of Incorporation, are to preach the Gospel, help the poor, worship G-D, and conduct rituals (baptisms, marriage, funerals, etc.) in furtherance of that worship. Applicant Ex. No. 1.

5. The Church filed an Application to Adopt an Assumed Corporate Name with the Illinois Secretary of State on January 26, 1995. This application states that the Church intends to adopt and to transact business under the assumed corporate name of “Willing Workers Community Care Center, Inc.”<sup>1</sup> Applicant Ex. No. 2.
6. The Center obtained ownership of the subject property by means of a special warranty deed dated June 6, 1996. This deed, and the trust deed which accompanied it, listed “Willing Workers Community Center, Inc,” as the titled owner. Applicant Group Ex. No. 5.
7. The Center held weekly Bible studies, pastoral counselings and numerous other community-oriented activities, such as GED preparation sessions, toy, clothing and food drives, anti-drug programs, and discussions promoting sexual abstinence, at the subject property throughout 1997. Applicant Group Ex. No. 8; Tr. pp. 34-36, 41-42, 46-47, 53, 57, 69, 95, 98-99, 102-105.
8. The Center made all of these programs available to the community at large without cost and financed any it incurred for materials and related items through donations and contributions from the Church. Tr. pp. 71, 73.
9. The Center held these activities in order to provide community residents, especially children, with safe alternatives to drugs and other dangerous activities. Tr. pp. 41, 51-52, 56.

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1. All subsequent references to “Willing Workers Community Care Center, Inc.” shall be to “the Center.”

## **CONCLUSIONS OF LAW:**

An examination of the record establishes that this applicant has demonstrated, by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting the subject property from 1997 real estate taxes under Section 15-40 of the Property Tax Code. Accordingly, the Department's initial determination herein matter should be reversed in accordance with the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted the Property Tax Code, (35 ILCS 200/1-1 *et seq*) (hereinafter the "Code"). The Code provisions that govern disposition of this case are found in Sections 15-40 and 65(a) which provide, in pertinent part, as follows:

**200/15-40. Religious purposes, orphanages, or school and religious purposes.**

§ 15-40. Religious purposes, orphanages, or school and religious purposes. All property used exclusively for religious purposes ... and not leased or otherwise used with a view to profit, is exempt ...[.]

**35 ILCS 200/15-40.**

**200/15-65. Charitable purposes**

§ 15-65. Charitable purposes. All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity.

35 ILCS 200/15-65, 65(a).

Statutes conferring property tax exemptions are to be strictly construed, with all facts construed and debatable questions or doubts resolved in favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Moreover, applicant bears the burden of proving by clear and convincing evidence that the property it is seeking to exempt falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App.3d 678 (4th Dist. 1994).

Here the relevant statutory exemptions pertain to: (1) properties “used exclusively for religious purposes ...” (35 ILCS 200/15-40); and, (2) properties owned by “institutions of public charity” that are actually and exclusively used for charitable or beneficent purposes. (35 ILCS 200/15-65, 65(a)). The word “exclusively” when used in Sections 15-40 and 15-65 means the “the primary purpose for which property is used and not any secondary or incidental purpose.” Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993).

As applied to the uses of property, a religious purpose means “a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction.” People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132,

136-137 (1911). “Charitable or beneficent purposes” are those which, by definition, benefit an indefinite number of people and persuade them to an educational or religious conviction that benefits their general welfare or somehow reduces the burdens of government. Crerar v. Williams, 145 Ill. 625 (1893).

Technical distinctions between the charitable exemption, which requires both exempt ownership and exempt use (Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968)), and the religious exemption, which, in the present context,<sup>2</sup> requires only exempt use (People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, *supra*), can become blurred if dispensing charity forms an integral part of a religious organization’s mission. First Presbyterian Church of Dixon v. Zehnder, 306 Ill. App. 3d 1114, 1117 (2<sup>nd</sup> Dist. 1999). Here, the Church’s articles of incorporation specifically state that its central organizational purposes are to facilitate the worship of G-D, preach the Gospel and help the poor. Thus, any uses of the subject property that facilitate such goals, including, *inter alia*, the bible studies, pastoral counselings and food, clothing and toy drives, qualify as exempt uses under hybrid analysis set forth in First Presbyterian Church of Dixon, *supra*.

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2. The segment of Section 15-40 which governs the exemption of parsonages does require that the property be in exempt ownership. See, 35 ILCS 200/15-40. However, because the subject property was not used as a parsonage, that portion of Section 15-40 is inapplicable herein.

I would nevertheless note that the denial herein was partially predicated on lack of exempt ownership. This appears to be based on confusion stemming from information contained on the Assumed Name Application admitted as Applicant Ex. No. 2. This document indicates that “the corporation [which, in this case, is the Church] intends to adopt and to transact business under the assumed corporate name of Willing Workers Community Center, Inc.” Applicant Ex. No. 2.

I take administrative notice that the General Not For Profit Corporation Act of 1986, 805 ILCS 105/101.01, *et seq* (hereinafter the “Act”), contains specific provisions allowing not-for-profit corporations to operate under assumed names. Those provisions are found in Sections 104.15(a) and 104.05 of the Act, the former of which states, in pertinent part, that “[a] domestic corporation ... may elect to adopt an assumed corporate name that complies with subsection 104.05 of this Act with respect to Corporate Names.”

805 ILCS 105/104.15(a). The latter provision states, in relevant excerpt, as follows:

**105/104.05. Corporate Name of domestic or foreign corporation**

§ 104.05 (a) Corporate name of domestic or foreign corporation. The corporate name of a domestic corporation or of a foreign corporation organized, existing or subject to the provisions of this Act:

(1) *May* contain, separate and apart from any other word or abbreviation in such name, the word “corporation,” “company,” “incorporated,” or “limited,” *or any abbreviation of one of such words*;

805 ILCS 105/104.05(a)(1) [Emphasis added].

The emphasized language is permissive in nature and specifically allows not-for-profit corporations, such as the Church, to employ certain abbreviations in their assumed names. “Inc.” is among the class of abbreviations that Section 104.05(a)(1) permits, but does not require,<sup>3</sup> such corporations to use. Consequently, the mere facts that applicant: (1) obtained ownership of the subject property pursuant to documents that listed “Willing Workers Community Center, Inc.” as the titled owner and, (2) applied for the present exemption under the name “Willing Workers Church of Faith, Inc. d/b/a Willing Workers Community Center,” are of no legal significance herein.

This is especially true where, as here, the subject property need not be in exempt ownership because one of the applicable statutes, Section 15-40, confers an exemption that is based on use alone. As noted above, the Church is the type of entity whose property is subject to exemption under Section 15-40 if used for appropriate purposes. The preceding analysis, together with the holding in First Presbyterian Church of Dixon, *supra*, demonstrate that the subject property was so used. Therefore, the Department’s determination denying said property exemption from 1997 real estate taxes should be reversed.

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3. This absence of mandatory language stands in direct contrast to Section 4.05(a)(1) of the Business Corporation Act of 1983, 805 **ILCS** 5/ 1.01, *et seq*, which specifically states, in relevant part that the corporate name “[s]hall contain, separate and apart from any other word or abbreviation in such name, the word ‘corporation,’ ‘company,’ ‘incorporated,’ or ‘limited,’ or any abbreviation of one of such words ...[.]” 805 **ILCS** 5/4.05(a)(1). [Emphasis added].



WHEREFORE, for all the aforementioned reasons, it is my recommendation that real estate identified by Cook County Parcel Index Numbers 26-07-304-035, 26-07-304-036, 26-07-304-037, 26-07-304-038, 26-07-304-039 and 26-07-304-040 be exempt from real estate taxes 1997 real estate taxes under Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*

December 14, 2000

Date

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Alan I. Marcus  
Administrative Law Judge